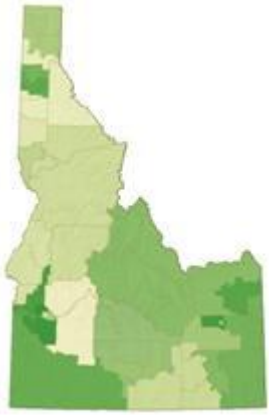

Idaho's Citizen

Commission for Reapportionment

Capitol Building
700 W. Jefferson Street
Boise, ID 83720-0054

Phone: (208) 334-4740
E-mail: redistricting@redistricting.idaho.gov
Web site: www.redistricting.idaho.gov

Public Meeting
Friday, July 15, 2011
Capitol Building, Capitol Auditorium
9:30 a.m.

Chairman Andersen called the meeting to order at 9:35a.m. Present were **Commissioner Esposito**, **Commissioner Finman**, **Commissioner Frasure**, **Commissioner Andersen**, **Commissioner Kane**, and **Commissioner Moses**. Present from the staff were **Mr. Keith Bybee**, **Ms. Kristin Ford**, **Mr. Todd Cutler**, and **Cyd Gaudet**. Present from the Attorney General's office were **Ms. Mooney** and **Mr. Gilmore**.

Chairman Andersen indicated that before they got into the report from the Attorney General's office, they would like to review three further Congressional plans which had been submitted.

Mr. Cutler then brought up plan C#30 which stated that the plan's creator tried to obtain the least amount of deviation without changing the census blocks. **Mr. Cutler** noted that the deviation was 13 people, or 0%. Several commissioners noted that this was a different approach.

Mr. Cutler then moved on to C#31 which he noted was similar to previous plans; however, it was changed so that the deviation was 0%, with a Canyon County split, and no precincts split. **Chairman Andersen** indicated that this one moves Boise to CD2. **Commissioner Moses** indicated that this map illustrates how this process can get into a mechanical exercise if they want it to, however you have to work in a human sense, as well as mathematical.

Mr. Cutler then moved to C#32 which was submitted by Branden Durst with a deviation of 18 people.

Chairman Andersen then called on **Mr. Gilmore**. **Commissioner Frasure** indicated he would like to hear from **Ms. Mooney**. **Chairman Andersen** ruled that he would allow the Attorney General's team to decide who would speak on their behalf, and Mr. Gilmore addressed the Commission. **Mr. Gilmore** presented the commissioners with two handouts, and indicated that he would start his presentation with the U.S. Supreme Court, cases moving from the most recent to the oldest. He indicated that the first case, *Abrams v. Johnson*, from 1997, was very enlightening. He directed the commission to the brief description where it indicated that Georgia had 11 districts with deviations substantially more than what they were seeing yesterday, as they were over 2,000 people. He explained that the U.S. Supreme Court said this was constitutional because it was reflective of the state's strong preference in preserving counties and precincts, and the state's interest in maintaining court districts and communities of interest. He then went to *Karcher v. Daggett*, which was decided after the 1980 census, where you see almost the opposite of this where the court throws out a New Jersey plan that had deviation of only 726 people. He explained that one of the problems was that New Jersey had not proven to the lower court, that the articulated reasons required this result. He illustrated this by indicating that if your articulated reason was not splitting precincts, and someone could come up with a better plan, that did not split precincts, then the courts would not allow that. So the biggest picture he can draw from these two cases is that there are reasons that the U.S. Supreme Court will allow plans that are not 0% deviation; however, you must prove to the lower court that you have done the best job of getting close to 0%, consistent with those reasons. He then explained that

if your state policy is not to split counties or precincts and someone can come up with a plan with a smaller deviation that is consistent with those articulated state standards, then the plan with the higher deviation will not survive. He then went over *White v. Weiser* from 1973 where the court said the plan was unconstitutional with a 3,000 person deviation after the 1970 census. He also went over *Kirkpatrick v. Preisler* where there were deviations as high as 13,000, and finally Wesberry v. Sanders with hundreds of thousands in deviation and clearly unconstitutional.

He then moved to the lower court cases because this gives some idea how the lower courts are grappling with this question and gives you some idea how the U.S. Supreme Court would look at some of these cases. He explained that in the handout he has indicated which are federal court cases, and which were not. He went over the newest case, from 2011 which said that an 8,000 population deviation was unconstitutional. The second case was from 2008 where a 1 out of 654,360 was constitutional. He then went over *Larios v. Cox* and *Vieth v. Pennsylvania* because he stated that these are very informative. *Larios v. Cox* came out of Georgia and it has a deviation of 72 and it says that we are satisfied that Georgia's congressional redistricting plan passes constitutional muster, as its minimal seventy-two person deviation appears to us to have been caused by legitimate efforts to limit the number of precinct splits and to contain any necessary precinct splits to easily recognizable boundaries. Then in the second *Vieth v. Pennsylvania*, the court dings a 17 deviation plan because although they said that they were abiding by articulated state standards, for example not splitting precincts, someone came up with a better plan with less than a 17 deviation. He stated then that this is the balance of what they are seeing in these lower court decisions. The lower courts will allow plans with deviations in the scores or the 100's, so long as it is according to an articulated state standard, generally by statute, and nobody can come up with a better plan that is consistent with that articulated state standard. However, you can have a very small deviation, and if your ostensible reason for that is that it is an articulated standard, and someone does a better job then that small deviation will not survive. He then went to the first *Larios v. Cox* which was affirmed without opinion by the United States Supreme Court. He explained that what this means is that these reapportionment cases have an automatic right of appeal to the U.S. Supreme Court, and when they affirm without opinion they are ruling on the merits and they are saying yes we are not refusing to hear what the lower court said, we are affirming the lower court on the merits. He then read the case summary which Ms. Mooney had prepared and suggested that these are things that should be kept in mind, and indicated that the third might be the most important:

1. Congressional districts should be as nearly equal in population "as practicable." The State must make a good faith effort to achieve mathematical equality.

2. Where deviations exist, the State must prove that each variance was necessary to achieve a consistently applied, legitimate, and non discriminatory goal. These goals can include making districts compact, respecting municipal boundaries, preserving the cores of prior districts, avoiding contests between incumbents, etc.

3. The State must offer specific proof of the legitimate goal and how it requires the deviation. However, the requirement is flexible depending on the size of the deviation, the importance of the State's interest, the consistency with which the plan as a whole reflects the State's interests, and the availability of alternatives that also supports these interests but is more mathematically precise.

He explained that, in a nut shell, all of these lower court cases, besides *Karcher*, cited these criteria and some of them held deviations as low as 17 unconstitutional because you could do better, and some of them held deviations in the 1,000's because they cited articulated state interests such as county boundaries or precincts and no one could come up with a better plan that respected those. He stated that the lower courts grapple with this and have a lot of trouble; however, there is a substantial body of lower court decisions that have been affirmed, without opinion by the U.S. Supreme Court , that have recognized deviations as large as the 280 or 290 which they were discussing the day before. So he stated that the basic policy decision, and not a legal opinion, that is presented by this body of case law is what the state's interest is, do you think as a body that it's a 0% deviation, or is it a county line that is the most important, and whatever policy decision you make, he thinks, either way is a very defensible way to go. He said if he was looking to challenge the commission he could challenge it for splitting a county boundary, or for not going with a 0% deviation because they are both legitimate grounds, and until the Idaho Supreme Court makes a ruling no one will know the answer.

Commissioner Esposito then asked about the Fulton County, Georgia [Abrams v. Johnson] case, and asked if suit was brought because they split Fulton County, and if it stood because there was a historical basis for this split even though one of the state criteria was not to split counties. **Ms. Mooney** answered that in this case they overturned the original plan that was submitted by the state, which appears that they give more deference to the plans created by the District Court. **Commissioner Esposito** indicated that it was his understanding that they ended up splitting Fulton County and that was one of the areas of contention and that the U.S. Supreme Court upheld that. He then asked if Georgia law lists one of their criteria as not splitting counties. **Ms. Mooney** indicated that this was one of the concerns in the case and how it was historically treated. **Commissioner Esposito** then asked if they had historically split Fulton County, and Ms. Mooney indicated she would go back and check on this. **Commissioner Esposito** indicated that in his research this was in fact the case that not splitting Fulton County was one of the issues, and that this county had been historically split, and that the U.S. Supreme Court upheld this. **Ms. Mooney** indicated that she would check the case.

Commissioner Kane then commented about the factors that the U.S. Supreme Court has used. She indicated that since the Attorney General's office will be helping the commission write the justification, they need to consider that the Idaho Constitution states that not splitting counties is a top priority, so they need to know whether that is the same, or different, from the *Abrams* decision. Additionally, she believed they need to know if the Attorney General's office thinks that the 0% plans submitted would be considered available alternatives, and if a factor that needs to be addressed is having only two Congressional Districts in Idaho, making it less complicated, which might be a factor in the court's decision. **Mr. Gilmore** indicated that the existence of plans which have a deviation at 0% which split counties does not prove that it's possible to reach a 0% deviation without splitting counties. He stated that in all of the cases that have upheld a deviation above 0 (as you can always come up with a plan at 0% deviation), the issue was: could you come up with a plan with a smaller, or 0% deviation *that meets the articulated state standards*.

Commissioner Kane then asked about the wording in the *Karcher* case stating that no amount of deviation is too little to worry about, and asked that if a challenger can show that the inequality could have been avoided (which it seems that they can do by pointing to the public maps), then it doesn't seem like a very high standard as it seems that all they have to show is that it could have been reduced, or eliminated, by a little more effort. **Mr. Gilmore** indicated that the question is, could it have been eliminated or reduced using the articulated state standards. He stated that if you can find a legal basis in state law that is consistently applied, that is not pretextually applied, and in applying those standards you do not reach zero, and nobody can apply those same factors in a better manner and get closer to zero, then the lower courts and the U.S. Supreme Court will allow those factors to be taken into account, even though you do not reach zero. The reason is that the standards were pre-existing, they were not ad hoc or made up by the redistricting body. He indicated that there is a body of lower court law, that has been affirmed by the U.S. Supreme Court, which says if you did the best you can with the factors you have, it will be affirmed. **Commissioner Kane** then asked if the factors set forth in the constitution and statutes apply to congressional districts as well as legislative districts. **Mr. Gilmore** indicated that the county split is constitutional with regard to legislative districts and but only statutory with regard to congressional Districts.

Commissioner Esposito then asked a question regarding the order of priority of these statutory factors versus tradition. **Mr. Gilmore** stated that as Idaho has not in its case law articulated the tradition of splitting counties, and has a statute that says you shall not split counties, then courts are most likely to downplay tradition.. He reminded the Commission that Idaho's tradition last time was to neither get to a zero deviation nor to keep counties whole, so he would not rely on that. **Commissioner Esposito** then asked if the commission is going to have to either not split counties or else reach 0%, to be able to defend their position. **Mr. Gilmore** answered that one or the other of those arguments would be the strongest. **Commissioner Kane** then asked if having only two districts changes any of the factors. **Mr. Gilmore** indicated that he doesn't think that makes a difference. **Commissioner Kane** indicated that it seems if it can be done with 15 districts then a court would say it could be done with 2 districts. **Mr. Gilmore** reiterated that there is no question that it CAN be done; the only question is to what extent a court would defer to the articulated statutory standard of not splitting counties.

Commissioner Moses then inquired as to what entity would bring suit and to go to such expense over 17 people? **Mr. Gilmore** answered that frequently county central committees use these as stalking horses. **Commissioner Frasure** then asked that in relationship to our state laws, he understands that our state laws are constitutional unless a competent court throws them out. **Mr. Gilmore** indicated that this was correct. **Commissioner Frasure** then asked about the day before when **Mr. Gilmore** stated that two of our statutes could be thrown out in regard to the number of votes required. **Mr. Gilmore** indicated that the only time that this would become at issue is if a final plan gets four votes and it either splits a precinct or creates a district that is not connected by roads. **Commissioner Frasure** indicated that he understands that portion, and understands that is just his opinion, and that he is not a court of competent jurisdiction. He indicated that they would then have to assume that the law would stand, and that the commission would have to follow the law. He then asked that in getting into the county issue, it would appear to him that if the commission chose a plan with a 700 deviation, that does not split counties, and someone came in with a plan at 278, that does not split counties, that the commission would be wide open for someone to make their case at 278 or lower. **Mr. Gilmore** indicated that, if they adopt a plan that does not split counties, unless someone can beat 278 you would have to go with the 278 plan as this would be the lowest evidentiary record before the court. **Commissioner Moses** then questioned if the commission follows this that they don't need to be here as it is just a mathematical decision. **Mr. Gilmore** answered that in regards to the congressional redistricting that if you don't come up with a plan at 0% then you must articulate why you were not able to do that, and that this may not make the commission more than a bean counter, however this is the case law. **Commissioner Esposito** then suggested that if they are not to become bean counters, it is incumbent upon them to build the arguments around their decision. **Mr. Gilmore** added that if there is a 0 deviation that splits only one county, he would caution the commission not to take a 0% deviation that splits *more* than one county. **Commissioner Kane** then referred back to the one publicly submitted plan that splits one county with 0% deviation and indicated that if they go with 273 even if they articulate reasons, they risk the court saying they could have done it with less. **Mr. Gilmore** indicated that the commission is probably damned if they do and damned if they don't as there is a risk in either direction.

Commissioner Esposito then asked **Ms. Mooney** about the *Abrams* case. **Ms. Mooney** indicated that she had reviewed the case and found that there was a strong history of splitting Fulton County, and the court said that this was all right because they had a viable reason to keep the other counties together. **Commissioner Frasure** then asked that historically we have split Ada County, and in light of the *Abrams* case, did she feel that we have a strong enough tradition of splitting Ada County to prevail. **Ms. Mooney** indicated that she thought they could make that argument to maintain tradition. **Commissioner Esposito** then wanted to confirm that tradition did have some weight with the court, and if coupling that tradition with a 0% deviation, would they have a good case. **Ms. Mooney** indicated that this was a difficult question, however the 0% deviation does seem to be preferred by the court, and that if they coupled this with a historical argument she would think that the plan should be upheld. **Commissioner Kane** asked if the fact that the lower court created the plan in *Abrams* be a problem. **Ms. Mooney** indicated that it probably would be a factor, as they seem to give a little more deference to plans created by district courts. **Commissioner Moses** then indicated that he is looking for the principle underlying these decisions, and to him it looks like the court is looking for fairness. **Ms. Mooney** answered that the courts are looking for one person=one vote. **Commissioner Kane** then suggested that the bottom line is that the more equal you can get it, the better for the voter. **Ms. Mooney** answered that this was correct. **Chairman Andersen** then thanked the Attorney General's office for presenting the commission with this information. **Commissioner Frasure** then asked who they are going to be dealing with from the Attorney General's Office. **Mr. Gilmore** indicated that it would primarily be **Mr. Kane**, but he is out of town this week. **Chairman Andersen** then called a recess for 10 minutes.

Chairman Andersen called the commission back to order at 10:45. He then asked if the commission was going to establish criteria for presenting maps. **Commissioner Moses** indicated that he had a document from **Mr. Gilmore,** which was being copied for the commission regarding the statutory requirements that the commission was to work under. **Chairman Andersen** asked if he was suggesting that they look at the criteria and then put forth the maps.
Commissioner Finman then referred to a document which the commission had asked the staff to prepare with information from the other states. **Ms. Ford** then indicated that 11 states have completed their congressional plans; that 7 states got down to a 1 person deviation, and that 1 state got down to 0%. She indicated that Iowa has a .01% deviation at 76 people, Arkansas has a 1% deviation at 7,200 people, and that she had not heard back from Alabama at this time. She also noted that no lawsuits have been filed regarding these deviations. **Commisioner Finman** then asked that the staff keep the commission updated.

Commissioner Frasure then noted that 80% of these states are at 1 or 0, with one state that ventured clear out on the limb at 76 people, and one that is going to court. **Commissioner Moses** then indicated that he is very concerned that they are getting stampeded into 0 or nothing, and was wondering if the specter of a lawsuit was as large as they were making it. This is a political process and they should not be afraid to make political decisions. **Commissioner Frasure** noted that he watched 10 years ago, and that there was lots of money spent in defense, and it looks like every state is heading to 0. They can make political arguments until the cows come home but it will cost a whole lot of money. He stated that the commission is now at a decision point, and if they have any chance of meeting their goal of July 27th they are at a point where they need a policy decision.

Chairman Andersen then called on Mr. Bybee. **Mr. Bybee** explained that he had the one page handout which has on it Idaho Code 72-1506. **Commissioner Frasure** pointed out that this was already in place in the Policies and Procedures, **Chairman Andersen** indicated that he wanted them in front of the commission to use in reviewing the plans. **Commissioner Frasure** indicated that this reinforces why this was included in their Policies and Procedures from day one. **Chairman Andersen** then inquired if these statutes were in an order of preference. **Commissioner Frasure** recalled Senator Darrington's testimony regarding the legislative history of this statute, and answered that there was no pecking order, and that they all had equal standing, and asked **Mr. Gilmore** to address that. **Mr. Gilmore** indicated that all of the statutory items were on equal footing. **Commissioner Esposito** then inquired regarding number 5 and number 8, and asked how this squares up with earlier statements that counties can be divided. **Mr. Gilmore** indicated that there are two issues here; one is the constitutional provision against dividing counties, which only applies to legislative redistricting. Then the statute applies to legislative and congressional redistricting. **Commissioner Esposito** inquired if paragraph 8 (counties shall not be divided to protect incumbents) is a further qualification of paragraph 5 (division of counties shall be avoided). **Mr. Gilmore** agreed, and explained that the way that the case law falls out is that the only reason that the Idaho Supreme Court has accepted for dividing counties is for the one man=one vote criteria. He also explained that the legislative and congressional criteria are different. The legislative requirement is if a county is big enough to make two districts, it is all right to split it; however, the Constitutional requirement says that it's not all right to take part of a county just to put it with another county. He explained that the only way to override this was with the equal protection requirement criteria.
Commissioner Esposito then asked if regarding congressional districts, would it be a solid position to say that they are by statute all right with dividing a county. **Mr. Gilmore** indicated that it is permissible to divide a county; however it says this should be kept to a minimum, and that 0 is a minimum. **Commissioner Esposito** then asked if they would be better off going to 0% deviation with dividing a county. **Mr. Gilmore** stated that he believed that would be a political decision. **Commissioner Esposito** then asked if the articulable state standard does allow dividing counties and they go with the 278 plan and haven't split the counties when they could do that to get to zero deviation, how can they have it both ways. **Mr. Gilmore** answered that until the Idaho State Supreme Court gives a ruling there is no clearly preferable judicial path to go. **Commissioner Frasure** then referenced I.C. 72-1506(3) and asked if Mr. Gilmore was saying those applicable federal standards based on court decision is that they could go with the 270 option, or the option of 0. **Mr. Gilmore** said yes either 0, or up to 2 people. **Chairman Andersen** then asked if they were ready to discuss some plans or if they needed time to think about the information. **Commissioner Frasure** indicated that it was time to get some plans out to discuss, now that they know their two

options. **Commissioner Moses** asked that in light of the new information, for 15 minutes to caucus. **Chairman Andersen** without objection recessed for 15 minutes.

Chairman Andersen reconvened the commission at 11:25. **Commissioner Finman** then indicated that she would like to submit a Congressional plan for consideration; she called this the Five Mile Plan. **Mr. Cutler** advised that this would be C#33, with a 0% deviation. **Commissioner Frasure** explained that Ada County was the only county which was split, that they had to get down to the precinct and block level where they adjusted 56 people on the edge. He explained that they split one precinct by the I84 exchange. There was some discussion regarding the name of the road as it came off of I84 and it was indicated that this was E. Kuna Mora Road. **Commissioner Frasure** indicated that no one lives out in this area and as it is sparsely populated it was the cleanest one they could come up with 0% deviation. He explained that the line then comes back to Five Mile, and that the line at the top follows the traditional precincts. He further explained that where it leaves Five Mile is Cole Road, the connecting road is South Pleasant Valley Road, and Holly Lyn Road, then back to Five Mile all the way up to where it follows the existing precinct lines. He stated that they have just basically moved the line from Cole Road over 2 miles to Five Mile. He also explained that they are close to the traditional line that has been in existence since 1971 since the one person=one vote principle came into Idaho. **Chairman Andersen** then submitted that they would put all plans up to consider them as a group. **Commissioner Frasure** then pointed out that he had some other maps; however, they would not be as defensible as this map.

Commissioner Kane then stated she would like to submit a plan, called the I84 plan. **Mr. Bybee** then clarified that the plans will be named in the order in which they are received, and that this plan would be C#34. There followed brief discussion as to the naming convention of the plans, and Commissioner Kane informed the commission that ten years ago, the Viola Congressional plan was called the Throw-the-Cat-Over-the-Fence plan. **Mr. Cutler** then brought up C#34 with a deviation of 53 people, or .01%. **Commissioner Kane** explained that this plan divides Canyon and Ada Counties along I84 as voters and county clerks have expressed a desire for recognizable boundaries and I84 is the biggest marker in that area. At that time a copy of the map was handed out to the commission. **Commissioner Frasure** then asked the staff to print out the copies of C#33 as well. **Commissioner Moses** then asked for clarification if the line went from I84 to Homedale Road to the Owyhee County line and was told that was correct. **Commissioner Frasure** asked about a state road, and it was identified as Homedale Road, which the public testimony in Meridian had indicated was a well known road. **Commissioner Frasure** indicated that this was a very fine job. **Commissioner Kane** indicated that this plan pulls Owyhee County into District 2. **Commissioner Moses** advised that 53 was as close as they could get with the census blocks that are there. **Commissioner Kane** indicated that the legal argument for having a 53 person deviation and splitting two counties would be that the Idaho Constitutional requirements that oppose splitting counties apply to legislative and not congressional districts. **Mr. Gilmore** answered that this was correct. **Commissioner Moses** then indicated that the plan does cut precincts, however every county clerk has asked them to ignore precincts, and they have a letter from the Canyon County Clerk asking if he or we could redraw his precincts. **Commissioner Kane** indicated that this line of demarcation is as bright as you can get. **Commissioner Frasure** then stated that the commission has one plan sitting at 0 and one at 53 and asked **Mr. Gilmore** which one would be more defendable. **Mr. Gilmore** stated that he was reluctant to say which is more defendable and would rather answer the question if either one of them is defendable. **Commissioner Frasure** then asked in getting back to the 0% deviation factor, if the commission chose one with 53 people deviation would it be a reasonable argument. **Mr. Gilmore** stated that in a hierarchy of defensibility, 0 would be more defensible than 53, and 1 county split is more defensible than two. He stated that both would be defensible and it was for this body to decide. **Commissioner Kane** asked what the legal argument would be needed for either plan. **Mr. Gilmore** started with C#33 and indicated that the equal protection plan cause has been satisfied as closely as possible. In terms of splitting the county, he would make the argument that this body decided that the more important factor than counties was equal population, especially since counties are not a constitutional criteria, merely a statutory criteria. He stated that in terms of C#34 they are pretty close on equal criteria, and he was not sure that I84 was a statutory criteria. **Commissioner Kane** asked if the argument could be made that the statutory criteria does not apply to Congressional Districts. **Mr. Gilmore** indicated that some only apply to legislative districts, but unless that particular subsection indicates it applies only to legislative, then it applies to congressional districts as well. **Commissioner Kane** asked if the clear line of demarcation for the voter could be used as an argument. **Mr. Gilmore** indicated that he would bring this into the defense under communities of interest. **Commissioner Moses** pointed out that one area of testimony from the county clerks was a request for easily recognizable boundaries for ease of voting and promoting fairness in elections, and indicated that he was trying to add this to the argument for either plan. **Mr. Gilmore** indicated that in terms of defending either plan, you can argue that roads typically divide neighborhoods and communities of interest. **Commissioner Esposito** asked **Mr. Gilmore** regarding C#34 as it follows the I-84 corridor and if he could comment on the precincts that are split along there, and what impact that has on communities of interest. **Mr. Gilmore** indicated that there is some Idaho Supreme Court precedence in this area, which states that they would defer to this body and would not second guess the commission on this. **Commissioner Kane** then asked about the Bingham County challenge ten years ago, as their argument for splitting the county was to preserve traditional neighborhoods and communities of interest and to avoid oddly shaped districts and what the court said is that some precincts would have to be split. **Commissioner Frasure** indicated that this

statute language has changed since that court ruling, and that the permissive language has been dropped out. **Mr. Gilmore** indicated that this was correct, and the question becomes resolving the tension between these two requirements. **Commissioner Esposito** then asked about differentiation in roads that divide communities of interest. **Mr. Gilmore** stated that he is speculating but believes that the roads in #33 and #34 could be easily defended. In defending this he would say that they are very different communities on either side. **Commissioner Frasure** asked if a plan that was similar to C#35, without splitting precincts, would be more defensible. **Mr. Gilmore** stated that he was hesitant to get into fine gradations in terms of defensibility; however he could defend a deviation of 53 or 56. He stated that if you can articulate good reason, anything in the 50's shouldn't be difficult to defend. **Commissioner Frasure** then asked if they could pretty well ignore precinct lines. **Mr. Gilmore** answered that to get close to 0% he would feel comfortable defending a few split precincts but not dozens or hundreds of split precincts.

Commissioner Frasure then indicated that he would like to submit one more map that does not split precincts and splits one county. **Commissioner Kane** asked that C#22, which the public submitted, be pulled up, and she called it the "I'm Just Saying" plan. **Commissioner Moses** commented that C#22, from public submissions, has a 278 variation, divides no counties, and divides no precincts, and that 3 people had input this plan. **Commissioner Esposito** indicated that they had looked very closely at this plan and there was no way to get there from here if you're in Pocatello and want to get to Coeur d'Alene without going thru CD1. **Commissioner Moses** indicated that Idaho is just big, and that we have senators that deal with this all the time, and that you have to deal with what you've got. **Commissioner Kane** pointed out that a road connecting counties does not apply to congressional districts. **Mr. Esposito** pointed out that they need to look for what works best for the citizens, and that anything that doesn't connect a congressional district with a road does not serve the best interests of the citizens and is a non-starter. **Commissioner Moses** pointed out that of all the plans submitted that this is the only one that puts the Treasure Valley in one district. The largest community of interest in the state is now made whole in this plan, and if that is not determinative, it ought at least to be considered. **Commissioner Frasure** reminded the commissioners that 8 states out there have kept their deviation to zero and then asked for C#35 to be brought up. He stated that this follows forty years of history by just moving the line out to Five Mile. **Mr. Cutler** pointed out that this was a deviation of 56 people. **Commissioner Frasure** indicated that this was identical to #33 but did not divide any precincts. **Commissioner Andersen** asked if there were any other plans to be put on the table for consideration. **Commissioner Moses** then suggested that they leave these four plans open for public comment over the weekend, and perhaps visit a final decision on Monday. **Commissioner Frasure** then requested a 5 minute recess.

Chairman Andersen reconvened the meeting at 12:30. At that time Commissioner **Frasure** moved to adjourn until 10:00 a.m. on Monday. **Commissioner Moses** indicated that he would invite public comments on all of the maps. **Chairman Andersen** then adjourned until Monday.